**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE ANTONY DOMINIC**

**TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929**

**WP(C).No. 32848 of 2007(I)**
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**PETITIONER:**
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**GOPAKUMAR T.R.,**
**GOWRI NANDANA HERBAL INDUSTRIES,**
**DESOM.**

**BY ADV. SRI.A.VIJAYAKUMAR**
**SRI.A.N.SANTHOSH**

**RESPONDENTS:**
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**1. STATE OF KERALA, REPRESENTED BY**
**SECRETARY TO GOVT.TAXES, GOVT.SECRETARIAT,**
**TRIVANDRUM.**

**2. AGRICULTURAL INCOME TAX AND**
**SALES TAX OFFICER,**
**COMMERCIAL TAXES, ALUVA.**

**3. SPECIAL TAHSILDAR, R/R**
**ALUVA.**

**4. THE DEPUTY COMMISSIONER (APPEALS)**
**DEPARTMENT OF COMMERCIAL TAXES,**
**COCHIN.**

**BY GOVERNMENT PLEADER SRI.K.P.PRADEEP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ANTONY DOMINIC, J.**
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**W.P.(C) NO. 32848 OF 2007 I**
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**Dated this the 6th day of November, 2007**

**J U D G M E N T**

For the assessment years, 1993-94, 1994-95 and 1995-96, assessment was completed against the petitioner denying him the benefit of exemption. That was directed to be reconsidered by Ext.P1 judgment in OP 2593/02. While so, the 2nd respondent took steps for recovery of the amount due in terms of the aforesaid assessment orders. While so, the assessment was revised as per Exts. P3 to P5 and the original liability of Rs.2,93,702/- stood reduced to Rs.1,39, 994/-. Petitioner now submits that revenue recovery action has been initiated and the property is now put for sale for realising the amount due in terms of the original assessment orders ignoring its revision and it is scheduled to take place on 9/11/2007. Petitioner also submits that as against the revised order of assessment, he has already filed appeal and stay petitions before the 4th respondent which are numbered as STA 3173 and 3174/07.

2. In view of the fact that the original assessment has already been revised, it is not possible for the respondents to recover the amount due in terms of the original order of

assessment. Even in respect of the revised orders of assessment Exts. P3 to P5, the appeals and stay petitions are pending. Therefore before further revenue recovery proceedings are initiated, it is necessary that the stay petitions filed by the petitioner before the 4th respondent should be considered.

3. Now that coercive action has already been taken and sale is scheduled to take place on 9th of this month, I dispose of this writ petition with the following directions.

The 4th respondent shall consider and pass orders on stay petitions filed by the petitioner along with STA 3173/07 and 3174/07 as expeditiously as possible, at any rate within a period of three weeks from the date of receipt of a copy of this judgment. In the meantime, further proceedings for realisation of the sales tax dues of the petitioner for the assessment years 1993-94, 1994-95 and 1995-96 shall be deferred for a period of one month.

Petitioner shall produce a copy of this judgment before the 4th respondent for compliance.

**ANTONY DOMINIC, JUDGE.**

Rp